

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
	:	
Inquiry into the status of deployment of	:	07-0039
telecommunications services to	:	
consumers under Section 13-407 of	:	
the Public Utilities Act.	:	

ORDER

By the Commission:

Section 13-407 of the Public Utilities Act ("Act") reads as follows:

The Commission shall monitor and analyze patterns of entry and exit and changes in patterns of entry and exit for each relevant market for telecommunications services, including emerging high speed telecommunications markets, and shall include its findings together with appropriate recommendations for legislative action in its annual report to the General Assembly.

The Commission shall also monitor and analyze the status of deployment of services to consumers, and any resulting "digital divisions" between consumers, including any changes or trends therein. The Commission shall include its findings together with appropriate recommendations for legislative action in its annual report to the General Assembly. In preparing this analysis the Commission shall evaluate information provided by telecommunications carriers that pertains to the state of competition in telecommunications markets including, but not limited to:

- (1) the number and type of firms providing telecommunications services, including broadband telecommunications services, within the State;
- (2) the telecommunications services offered by these firms to both retail and wholesale customers;
- (3) the extent to which customers and other providers are purchasing the firms' telecommunications services;

- (4) the technologies or methods by which these firms provide these services, including descriptions of technologies in place and under development, and the degree to which firms rely on other wholesale providers to provide service to their own customers; and
- (5) the tariffed retail and wholesale prices for services provided by these firms.

The Commission shall at a minimum assess the variability in this information according to geography, examining variability by exchange, wirecenter, or zip code, and by customer class, examining, at a minimum, the variability between residential and small, medium, and large business customers. The Commission shall provide an analysis of market trends by collecting this information from firms providing telecommunications services within the State. The Commission shall also collect all information, in a format determined by the Commission, that the Commission deems necessary to assist in monitoring and analyzing the telecommunications markets and the status of competition and deployment of telecommunications services to consumers in the State.

The Illinois Commerce Commission ("Commission") is mandated to monitor and analyze entry and exit for each relevant market for telecommunications services, including emerging high speed telecommunications markets, and to monitor and analyze the status of deployment of services to consumers, and any resulting "digital divisions" between consumers, including any changes or trends. The Commission is required to evaluate information provided by "telecommunications carriers," but also to provide an analysis of market trends "by collecting this information from firms providing telecommunications services within the State."

In a Staff Report dated December 21, 2006, the Staff of the Telecommunications Division has provided the Commission with an updated Competition Data Request ("CDR") for calendar year 2007. In previous Orders (04-0015, 05-0057, and 06-0073), the Commission has required all telecommunications carriers providing local exchange telecommunications services to provide responses to the CDR for that year. The Commission has also directed Staff to solicit information from facilities-based providers of broadband services in Illinois that do not hold a certificate of service authority under Article XIII of the Act.

Staff has made a number of substantive changes in the 2007 CDR. Given recent changes to state and federal unbundling obligations for incumbent local exchange carriers (ILECs), competitive LECs (CLECs) have been making increasing use of two additional fundamental approaches: leasing all or a portion of the facilities needed to serve end-user customers from ILECs under "commercial agreements", and/or purchasing or leasing wholesale telecommunications services from non-ILECs. In order to capture these

additional platform options, Staff proposes to revise Chart 1 (and its various subcharts) to include these two platform options in addition to the three platform options captured in previous reports.

In order to better differentiate between instances when CLECs are competing with ILECs and those where CLECs are serving customers in their ILEC affiliates incumbent service area, Staff proposes a second change to revise Chart 1 (and its various subcharts) to require CLECs to report the number of lines they serve that are located within their ILEC affiliates' incumbent service areas.

Section 13-301(b) requires the Commission to monitor the level of telecommunications subscriber connections within each exchange in Illinois. Staff proposes to amend the request to collect information that can be used to determine the number of 9-1-1 listings in each exchange. According to Staff, this information will provide the Commission a reasonable proxy by which it can monitor the level of telecommunications subscriber connections within each exchange in Illinois as required by Section 13-301(b).

Staff finally recommends that the Commission clarify that services provided over non-traditional technologies, which are often close substitutes for comparable services provided over more traditional circuit switched technologies, should be reported to the Commission.

The Commission is satisfied that the Staff has provided support for each of the recommended changes and accepts the recommendations.

Section 5-101 of the Act, made applicable to the telecommunications carriers offering competitive telecommunications services pursuant to Section 13-101 of the Act [220 ILCS 13-101], reads in relevant part:

Every public utility shall furnish to the Commission all information required by it to carry into effect the provisions of this Act, and shall make specific answers to all questions submitted by the Commission.

The information sought pursuant to the direction of Section 13-407 of the Act is available to the Commission through both Sections 13-407 and 5-101 of the Act.

Based upon the information and recommendations set forth in the Staff Report, and upon the Commission's authority under Section 5-101 of the Act, the Commission will adopt Staff's recommended changes to the current CDR as set forth in Appendix A of Staff's Report. To that end, the Commission will incorporate into this Order Appendix A of Staff's Report as the Appendix to this Order. The Commission will also order all telecommunications carriers providing local exchange services within the State of Illinois to respond to the Illinois Commerce Commission Competition Data Request set forth as in the Appendix to this Order in accordance with the directions on the form, and send the completed form to Staff in the manner directed on the form, no later than March 1, 2007. As

provided on the form, carriers that are certificated to provide local exchange services but are not currently providing such services may respond with a letter to that effect.

With respect to facilities-based providers of broadband services within the State of Illinois that do not possess a certificate of service authority under Article XIII of the Public Utilities Act, Staff will be directed to seek to collect information from such firms, and to report back to Commission as to the responses received, along with any recommendation for further formal Commission action in this proceeding or otherwise. The Commission notes that the failure of the facilities-based providers to provide this information may result in the issuance of subpoenas pursuant to Section 10-106 of the Act in order to acquire the information.

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the subject matter herein, and jurisdiction of the nature noted herein over entities providing services concerning which the Commission is required to report to the General Assembly under Section 13-407 of the Public Utilities Act;
- (2) the Staff Report, dated December 21, 2006 including Appendix A of that report, should be filed in this docket and made a part of the record of this proceeding;
- (3) Appendix A to the Staff Report should be incorporated into this Order as the Appendix to this Order; and
- (4) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact.

IT IS THEREFORE ORDERED that the Staff Report, including Appendix A of that report, shall be filed in this docket and made a part of the record of this proceeding and Appendix A to the Staff Report shall be incorporated into this Order as the Appendix to this Order.

IT IS FURTHER ORDERED that all telecommunications carriers providing local exchange services within the State of Illinois shall respond to the Illinois Commerce Commission Competition Data Request as set forth as the Appendix to this Order by completing it in accordance with the directions on the form, and sending the completed form to Staff in the manner directed on the form, no later than March 1, 2007.

IT IS FURTHER ORDERED that Staff is directed to seek to collect the same information from facilities-based providers of broadband services within the State of Illinois that do not possess a certificate of service authority under Article XIII of the Public Utilities

Act, and to report back to the Commission as to the responses received, along with any recommendation for further formal Commission action in this proceeding or otherwise.

IT IS FURTHER ORDERED that the Chief Clerk serve a copy of this Order on the designated agent of each telecommunications carrier providing local exchange services within the State of Illinois.

IT IS FURTHER ORDERED that failure of any to submit the responses to the requests for information as ordered may subject that telecommunications carrier to civil penalties pursuant to Section 13-305 of the Public Utilities Act.

IT IS FURTHER ORDERED that, subject to Section 10-110 of the Public Utilities Act, this Order is final; this Order is not subject to the Administrative Review Law.

By Order of the Commission this 10th day of January, 2007.

(SIGNED) CHARLES E. BOX

Chairman